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Paper No. 21

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AUG 15 2003

In re Application of Manabu Tomita :
Application no. 09/387,477 : DECISION ON PETITION
Filed: 1 September 1999 :
Attorney Docket No. TI-26105 :

This is a decision on the petition filed under 37 C.F.R. §1.181 on June 11, 2002, to invoke the supervisory authority of the Director of the USPTO to review the action of the examiner in the above identified application. The petition is before the Director of Technology Center 2800 for review.

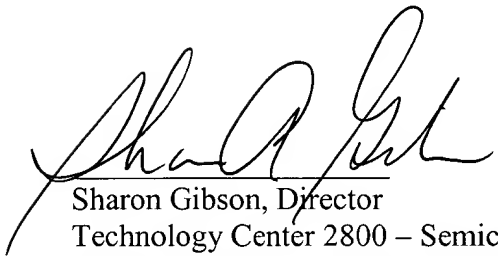
The petition is **NOT GRANTED** to the extent indicated below.

A Final Office action was mailed April 5, 2002 rejecting the pending claims 1 and 3 through 7. The Petitioner filed an amendment under 37 C.F.R. §1.116 addressing the outstanding rejections on May 14, 2002. An Advisory Action denying entrance of the amendment was mailed on May 21, 2002. Petitioner requests that the amendment filed under 37 C.F.R. §1.116 be entered because it is merely for cosmetic purposes and does not raise new issues that would require further search and consideration.

In the Final Office action, the Examiner rejected the claims 1 and 3 through 7 under 35 U.S.C. §112, First Paragraph because the specification was not enabled for the following claim limitation - "the fluorocarbon gas having the lower ratio of carbon atoms to fluorine atoms forming at least one half of the mixed gas." Petitioner then attempted to address the discrepancy by amending the specification and claims.

The originally filed claims one and two did not contain the above claim limitation as asserted by the Petitioner. Any attempt to incorporate such subject matter within the specification would be considered to be new matter in accordance to 35 U.S.C. §132. See MPEP §706.03(o).

In view of the above, the amendment filed under 37 CFR §1.116 will not be entered for purposes of appeal.

A handwritten signature in black ink, appearing to read 'Sharon Gibson', is written over a horizontal line.

Sharon Gibson, Director
Technology Center 2800 – Semiconductors, Electrical and
Optical Systems and Components